

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

JACOB HALL,

Petitioner,

vs.

MICHAEL MUKASEY, et al.,

Respondents.

4:08-CV-1136-RDP-RRR

MEMORANDUM OPINION

This is a habeas corpus petition brought pursuant to 28 U.S.C. § 2241. The magistrate judge entered a Report and Recommendation recommending that Respondents' motion for summary judgment be granted and that the action be dismissed. Objections have been filed.

In his objections, Petitioner argues as follows:

the R & R states that the Petitioner is only alleging a violation of *Zadvydas v. Davis*, 533 U.S. 678 (2001), pending his deportation. R & R at p. 1. This is a narrow and incorrect view of the Petitioner's claims. The Petitioner also claimed a due process violation in connection with the Respondents' failure to consider whether the Petitioner posed a flight risk or danger to the community in accordance with 8 C.F.R. § 241.4(f); the Respondents' failure to consider materials submitted in support of his release (such as support letters) in accordance with 8 C.F.R. § 241.4(k); and the failure of the HQDPU (post-removal unit in Washington, D. C.) to ever respond to the Petitioner's requests for release. There is no mention of any of these items in the R & R.

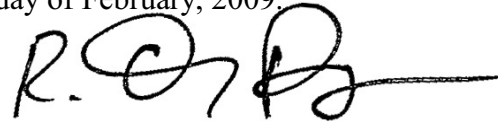
Although Petitioner separated his claims into three separate counts, they are all in effect alleging that he is being illegally detained, pending his deportation, in violation of *Zadvydas v. Davis*, 533 U.S. 678 (2001).¹ The court has considered the entire file in this action, including the Report and

¹ In Counts 2 and 3, Petitioner alleges that his substantive and procedural due process rights are being violated because he is being detained in violation of *Zadvydas*. *Petition*, Court Document 1, at pp. 5-6. Petitioner himself admits that the "sole important factual dispute, although there are many, I will focus on the central issue, is whether the Petitioner has cooperated with ICE." *Petitioner's Objections*, Court Document 16, at p. 4.

Recommendation, and has reached an independent conclusion that the Report and Recommendation is due to be adopted and approved.

Accordingly, the court hereby **ADOPTS** and **APPROVES** the findings and recommendation of the magistrate judge as the findings and conclusions of the court. This habeas petition is due to be dismissed. An appropriate order will be entered.

DONE and **ORDERED** this 5th day of February, 2009.

A handwritten signature in black ink, appearing to read 'R. David Proctor', written over a horizontal line.

R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE